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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-169**

12 **ANDREW LEON IVERSON**
7190 Iverson Place
13 Paso Robles, CA 93446
14 **Registered Nurse License No. RN 504243**

A C C U S A T I O N

Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about September 23, 1994, the Board of Registered Nursing issued Registered
24 Nurse License Number RN 504243 to Andrew Leon Iverson (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought in this
26 accusation and will expire on April 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

7. Section 2762 of the Code states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her
3 ability to conduct with safety to the public the practice authorized by his or her license.

4 (c) Be convicted of a criminal offense involving the prescription, consumption, or self-
5 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
6 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
7 of this section, in which event the record of the conviction is conclusive evidence thereof."

8 8. Section 490 of the Code states, in pertinent part:

9 "(a) In addition to any other action that a board is permitted to take against a licensee, a
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a
11 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
12 or profession for which the license was issued.

13 (b) Notwithstanding any other provision of law, a board may exercise any authority to
14 discipline a licensee for conviction of a crime that is independent of the authority granted under
15 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
16 of the business or profession for which the licensee's license was issued.

17 (c) A conviction within the meaning of this section means a plea or verdict of guilty or a
18 conviction following a plea of nolo contendere. Any action that a board is permitted to take
19 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
20 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
21 made suspending the imposition of sentence, irrespective of a subsequent order under the
22 provisions of Section 1203.4 of the Penal Code."

23 9. Section 493 of the Code states:

24 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
25 the department pursuant to law to deny an application for a license or to suspend or revoke a
26 license or otherwise take disciplinary action against a person who holds a license, upon the
27 ground that the applicant or the licensee has been convicted of a crime substantially related to the
28 qualifications, functions, and duties of the licensee in question, the record of conviction of the

1 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
2 and the board may inquire into the circumstances surrounding the commission of the crime in
3 order to fix the degree of discipline or to determine if the conviction is substantially related to the
4 qualifications, functions, and duties of the licensee in question.

5 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

6 10. California Code of Regulations, title 16, section 1444, states:

7 "A conviction or act shall be considered to be substantially related to the qualifications,
8 functions or duties of a registered nurse if to a substantial degree it evidences the present or
9 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
10 safety, or welfare."

11 DRUG STATUTES

12 11. Section 4022 of the Code states:

13 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use, and
14 includes the following:

15 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
16 prescription," "Rx only," or words of similar import.

17 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale
18 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
19 in with the designation of the practitioner licensed to use or order use of the device.

20 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
21 prescription or furnished pursuant to Section 4006."

22 12. Hydrocodone is a Schedule II controlled substance as designated by Health and
23 Safety Code section 11055(b)(1)(j), and a dangerous drug as designated by Business and
24 Professions Code section 4022.

25 13. Temazepam is a Schedule IV controlled substance as designated by Health and Safety
26 Code section 11057(d)(29), and a dangerous drug as designated by Business and Professions
27 Code section 4022.
28

1 14 Diazepam is a Schedule IV controlled substance as designated by Health and Safety
2 Code section 11057(d)(9), and a dangerous drug as designated by Business and Professions Code
3 section 4022.

4 15 Wellbutrin is a dangerous drug as designated by Business and Professions Code
5 section 4022.

6 16 Cymbalta is a dangerous drug as designated by Business and Professions Code
7 section 4022.

8 17 Trazadone is a dangerous drug as designated by Business and Professions Code
9 section 4022.

10 COST RECOVERY

11 18 Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 **FIRST CAUSE FOR DISCIPLINE**
16 **(Unprofessional Conduct: Use of Drugs in Dangerous Manner)**
 (Bus. & Prof. Code §§ 2761(a) and 2762(b))

17 19 Respondent has subjected his nursing license to discipline for unprofessional conduct
18 under code section 2761(a) as defined by Code section 2762(b) (unprofessional conduct relating
19 to controlled substances or dangerous drugs) in that he drove an automobile while under the
20 influence of controlled substances and dangerous drugs. The circumstances are as follows:

21 20 On or about August 31, 2009, Respondent was driving erratically and weaving in and
22 out of lanes on the highway. After pulling Respondent over, a California Highway Patrol (CHP)
23 officer questioned Respondent and noticed that his eyes were red and his speech was slurred. The
24 officer did not, however, detect an odor of alcohol. After asking Respondent to get out of his car
25 the officer noticed that Respondent was unsteady on his feet. Respondent admitted that he had
26 taken Cymbalta, Wellbutrin, and Trazadone earlier in the day.

27 21 Respondent failed to successfully perform several field sobriety tests. The officer
28 conducted a Drug Recognition Evaluation (DRE) and determined that Respondent was under the

1 influence of a Central Nervous System Depressant. Respondent gave a blood sample which was
2 submitted for analysis. The officer gave respondent a notice to appear in court and charged him
3 with driving under the influence of drugs in violation of Vehicle Code section 23152(a) and for
4 being under the influence of a controlled substance in violation of Health and Safety Code section
5 11550(a). A subsequent toxicology report indicated Temazepam, Hydrocodone, Acetaminophen,
6 and Trazadone in Respondent's blood.

7 **SECOND CAUSE FOR DISCIPLINE**
8 **(Conviction of Substantially Related Crime)**
9 **(Bus. & Prof. Code §§ 490, 2761(f) and 2762(c))**

10 22. Respondent has subjected his nursing license to disciplinary action under Code
11 sections 490 and 2761(f) in that he was convicted of a substantially related crime as defined in
12 California Code of Regulations, title 16, section 1444. Further, the crime involved the use of
13 controlled substances and drugs in a dangerous manner in violation of Code section 2762(c).
14 Specifically, on or about March 11, 2010, Respondent was convicted on a plea of nolo contendere
15 of one count of driving under the influence of drugs in violation of section 23152(a) of the
16 California Vehicle Code in San Luis Obispo County Superior Court, Case Number M000440214,
17 entitled *People of the State of California v. Andrew Leon Iverson*. The circumstances of the
18 crime are set forth in paragraphs 20 and 21, above.

19 **THIRD CAUSE FOR DISCIPLINE**
20 **(Unprofessional Conduct: Use of Drugs in Dangerous Manner)**
21 **(Bus. & Prof. Code §§ 2761(a) and 2762(b))**

22 23. Respondent has subjected his nursing license to discipline for unprofessional conduct
23 under Code section 2761(a) as defined by Code section 2762(b) (unprofessional conduct relating
24 to controlled substances or dangerous drugs) in that he drove an automobile while under the
25 influence of controlled substances and dangerous drugs. The circumstances are as follows:

26 24. On or about January 8, 2010, Respondent was driving erratically including weaving
27 outside his driving lane and almost causing several accidents. After pulling Respondent's vehicle
28 over and asking him to exit his car, a CHP officer questioned Respondent and noticed that his
eyes were bloodshot, his speech was slurred, and he was unsteady on his feet. Respondent denied
having any alcohol but admitted to taking numerous prescription medications.

1 25. Respondent failed to successfully perform several field sobriety tests. Respondent
2 admitted that he had taken Central Nervous System Depressants earlier in the day along with
3 other medications. Respondent had been taking about 17 different medications and claimed that
4 they were all obtained legally through his doctors. A different CHP officer conducted a Drug
5 Recognition Evaluation on Respondent and determined that he was under the influence of
6 depressants. Respondent gave a blood sample at the scene. The CHP officer gave Respondent a
7 notice to appear in court and charged him with driving under the influence of drugs in violation of
8 Vehicle Code section 23152(a) and for being under the influence of a controlled substance in
9 violation of Health and Safety Code section 11550(a). A subsequent toxicology report showed
10 that Respondent's blood sample had Diazepam, Nordiazepam, Hydrocodone, and Trazadone.

11 **FOURTH CAUSE OF DISCIPLINE**
12 **(Conviction of Substantially Related Crime)**
 (Bus. & Prof. Code §§ 490, 2761(f), and 2762(c))

13 26. Respondent has subjected his nursing license to disciplinary action under Code
14 sections 490 and 2761(f) in that he was convicted of a substantially related crime as defined in
15 California Code of Regulations, title 16, section 1444. Further, the crime involved the use of
16 controlled substances and drugs in a dangerous manner in violation of Code section 2762(c).
17 Specifically, on or about April 22, 2010, Respondent was convicted on a plea of nolo contendere
18 of one count of driving under the influence of drugs in violation of section 23152(a) of the
19 California Vehicle Code and one count of being under the influence of a controlled substance in
20 violation of Health and Safety Code 11550(a) in San Luis Obispo County Superior Court, Case
21 Number M000444191, entitled *People of the State of California v. Andrew Leon Iverson*. The
22 Court ordered Respondent to serve 80 days in jail, to be on probation for five years, to enter and
23 complete the 2nd Offender-Driving under the Influence Program, and to pay fines in the amount
24 of \$2,100. The circumstances of the crimes are set forth in paragraphs 24 and 25, above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

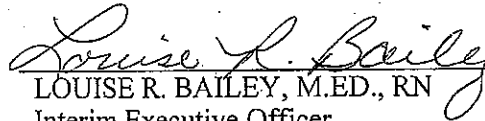
1. Revoking or suspending Registered Nurse License Number RN 504243, issued to Andrew Leon Iverson;

2. Ordering Andrew Leon Iverson to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: _____

8/31/10



LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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